

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13370 of 2000

with

SPECIAL CIVIL APPLICATION Nos 50, 52,54, 615, 616 & 617 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 13370 of 2000
Mr.Mihir Thakore for MR RJ OZA for Petitioner No. 1-2
Mr.I.M.Pandya, Asst.GOVERNMENT PLEADER for Respondent No. 1
MR HS MUNSHAW for Respondent No. 2,4
MR HM PRACHCHHAK for Respondent No. 3
MR HARIN P RAVAL for Respondent No. 4
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CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 04/04/2002

ORAL JUDGEMENT

All these petitions have been filed by different industrial units to declare the inaction on the part of the respondent department, namely, the State Govt in not determining the amount payable by the petitioners towards lumpsum contribution of octroi for the year 1998-99 to 2000-2001.

2. Mr.Mihir Thakore appearing for Mr.R.J.Oza for the petitioners submits that pending these petitions an order, dated 1.6.2001 has been passed by the State Govt in exercise of powers under section 201 of Gujarat Panchayats Act (hereinafter referred to as "the Act") whereby the amount of lumpsum contribution of octroi has been fixed for the years 1998-99 and 1999-2000. It has been further stated that so far as the period for 2000-2001 is concerned, an application has been submitted on 18/4/2000 to the District Development Officer for fixing lumpsum contribution of octroi and that the said application is yet not decided by the State Govt.

3. On behalf of the Gram Panchayat it has been submitted by Mr.Raval that the order passed by the State Govt dated 1.6.2001 is illegal and the Gram Panchayat would like to challenge the same. Mr.Raval further submitted that since the State Govt has passed the order dated 1.6.2001 for the period 1998-99 to 1999-2000 it has to be construed that the application of the petitioners-industrial units for the period 2000-2001 is deemed as rejected.

4. Considering the facts and circumstances pointed out hereinabove, I am of the view that pending these petitions since the State Govt has already passed the order dated 1.6.2001 fixing lumpsum contribution of octroi for the period 1998-99 to 1999-2000 the present petitions to the aforesaid extent have become infructuous. However, the Gram Panchayat can not be deprived of its right to challenge the order dated 1.6.2001 and therefore while observing that the petitions have become infructuous for the period 1998-99 and 1999-2000 is concerned, it is made clear that it will be open to the Gram Panchayat to challenge the legality and validity of the order passed by the State Govt dated 1.6.2001 fixing lumpsum contribution of octroi for the year 1998-99 and 1999-2000 in accordance with law.

5. It is also made clear that on account of order dated 1.6.2001 of the State Govt fixing lumpsum

contribution or as an outcome of proceedings which may be initiated by the Gram Panchayat challenging the order of the State Govt, if the petitioner-industrial units are required to make the payment, the Gram Panchayat will be at liberty to recover the same in accordance with law.

6. So far as fixing the amount of lumpsum contribution for the period 2000-2001 is concerned, it will be open to the petitioner-industrial units to move the State Govt for pursuing their application, if pending, and when such exercise is undertaken, the State Govt shall also take into consideration the objections, if any, filed by the Gram Panchayat.

7. In view of the above observations/directions, no further orders are required to be passed in these petitions and the petitions are disposed of accordingly. Rule in each of the petition is discharged with no order as to costs. Ad interim relief granted in each petition stands vacated.

4.4.2002 (JAYANT PATEL, J)